

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

David Stone,
Petitioner-Appellant,

v.

Plymouth County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-75-0250
Parcel No. 12-20-351-010

On May 10, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. David J. Stone of the National Bureau of Property Administration, Chicago, Illinois, filed this appeal on behalf of the subject property's owner, Jacobson Companies, and represented it at hearing. Plymouth County Assessor Robert Heyderhoff represented the Board of Review. Both parties participated by telephone. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Jacobson Companies¹ is the owner of property located at 1650 21st Street SW, Le Mars, Iowa. The real estate was classified commercial on the January 1, 2011, assessment. It was valued at \$4,175,000, representing \$251,250 in land value and \$3,923,750 in improvement value. Jacobson protested the assessment to the Plymouth County Board of Review on the ground that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1). The Board of Review denied the protest.

¹ David Stone filed the protest to the Board of Review and appeal to this Board on behalf of Jacobson Companies as its authorized agent. As the subject property's owner, this Order generally refers to Jacobson as the appellant even though Stone named himself as the appellant on the Notice of Appeal form to this Board.

Jacobson then appealed to this Board reasserting its inequity claim. It asserts the correct value is \$2,783,000, allocated \$251,250 in land value and \$2,531,750 in improvement value.

David Stone testified on behalf of Jacobson. He offered three properties in support of Jacobson's inequity claim. The subject property and Stone's comparable properties are summarized below.

	Subject	Comparable 1	Comparable 2	Comparable 3
Address	1650 21st St SW	1889 24th St SW	1512 24th St SW	1609 18th St SW
Property Type	Warehouse/Cold Storage	Warehouse	Warehouse	Cold Storage
Total Square Ft	104,160	142,126	95,400	103,249
Warehouse	88,407	139,610	94,746	3250
Office	2553	2516	654	648
Cold Storage Area	13,200	0	0	99,351
Grade	4+00	4+00	4+00	4+00
Site acres	6.05	7.76	5.45	11.52
Built/Remodeled	2000	1999-2009	2007	1991-1998
Total Assessment	\$4,175,000	\$2,859,280	\$2,195,350	\$4,421,870
Total Assessment per SF	\$40.08	\$20.12	\$23.01	\$42.83

In an effort to show the subject property was inequitably assessed, Stone compared the subject's assessed value per-square-foot to the comparables' assessed value per-square-foot. Stone testified regarding adjustments made to the comparables, which resulted in per-square-foot values of \$30, \$28, and \$33 for Comparables 1 to 3 respectively. However, these adjustments were not submitted to this Board for evaluation and therefore we are unable to determine the reasonableness of the adjustments. Further, this is not the proper analysis to support an equity claim under Iowa law.

The record contains a letter dated May 24, 2011, from Ryan M. Katz of the National Bureau of Property Administration. Katz states a study of industrial properties located in Plymouth County was conducted. Based on the study, he concluded the subject's value should be \$25 per-square-foot, or \$2,604,000.

Katz also valued the property based on the income approach. Using a market rent rate of \$3.00 per-square-foot, a 9.30% capitalization rate, and a 10% vacancy rate, he determined the subject's value to be \$26.72 per-square-foot, or \$2,783,000. Katz gave the most weight to the income approach and provided a final opinion of value for the subject property of \$2,783,000. Without showing that the assessor applied an assessment or appraisal methodology in a non-uniform manner, this analysis is not relevant to an inequity claim. Rather, this evidence is more relevant to an over-assessment claim, which is not properly before this Board.

Stone testified there were no recent sales of comparable properties and he did not provide any evidence of comparable properties' market values to complete an equity analysis as contemplated in *Maxwell v. Shivers*. 133 N.W.2d 709 (Iowa 1965).

In reviewing the property record cards, two of the warehouses are virtually 100% warehouse, one is 100% cold storage, and the subject property is the only property that is a combination, 85% warehouse and 15% cold storage. Stone's analysis shows the two warehouses (Comparables 1 and 2) are assessed at \$20.12 and \$23.01 per square foot and the cold storage unit (Comparable 3) is assessed at \$42.83 per square foot. Meanwhile the subject property is assessed at \$40.08 per square foot. Based on these differences, it appears additional value was attributed to the subject's warehouse space which increased its total assessment such that it seems the entire building was assessed as cold storage.

Robert Heyderhoff testified on behalf of the Board of Review. Heyderhoff was critical of Stone's equity analysis because it does not include sales data to complete a sale-ratio analysis. He also asserts two of Stone's equity comparables are unlike the Jacobson property because they are warehouses without cold storage.

Overall, Stone's analysis and evidence was insufficient for an equity claim. An equity analysis typically compares *prior year sale prices* (2010 sales in this case) to the *current year's assessments*

(2011) to determine the sales-ratio. Because there were no recent sales, no ratio analysis could be developed to show inequity.

Ultimately Jacobson failed to provide sufficient evidence that the subject property is inequitably assessed. However, we suggest the Board of Review reinspect the subject property to verify measurements of warehouse and cold storage space and to ensure the subject's warehouse space is properly valued.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If

sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

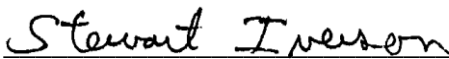
(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.

Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

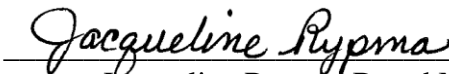
Jacobson did not contend the assessor applied an assessment method in a non-uniform manner to the subject property. Although Jacobson compared the subject’s assessed value per-square foot with properties it deemed comparable, it did not offer any evidence of recent sales of those properties to develop a sale-ratio analysis as contemplated by *Maxwell*. Altogether, Jacobson did not prove inequity by a preponderance of the evidence under either test.

THE APPEAL BOARD ORDERS the Plymouth County Board of Review decision affecting the Jacobson Companies' property located at 1650 21st Street SW, Le Mars, Iowa, is affirmed.

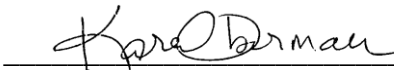
Dated this 31st day of May, 2013.



Stewart Iverson, Presiding Officer



Jacqueline Rypma, Board Member



Karen Oberman, Board Member

Copies to:

David J. Stone
National Bureau of Property Administration
180 North Stetson Avenue, Suite 2525
Chicago, Illinois 60601
REPRESENTATIVE FOR APPELLANT

Darin Raymond
215 4th Avenue SE
Le Mars, Iowa 51031
ATTORNEY FOR APPELLEE

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on May 31, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other


Signature _____